

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Leah E. Appel, et al. :
Examiner: S. T. Tran
APPLICATION NO.: 10/799,536 :
FILING DATE: March 11, 2004 :Group Art Unit: 1615
TITLE: Controlled Release By Extrusion of Solid :
Amorphous Dispersions of Drugs :
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Response And Amendment To Office Action Of March 2, 2006

This is in response to the non-final Office Action mailed on March 2, 2006 in the above-identified application, the term for response having been extended three (3) months by including the appropriate fee and petition herewith. Reconsideration and allowance are respectfully requested in light of the comments below.

REMARKS

As a preliminary matter, attention is directed to the Petition for Extension of Time of three months submitted herewith.

A current claim summary is presented as an addendum to this response, starting on its own separate sheet. It is noted that none of the claims has been currently amended.

Claims 49-68 and 70-77 continue to be rejected for obviousness-type double patenting over claims 1, 2, 4, 15-45, 47-49 and 51-67 of US patent 6,706,283, the Examiner having noted that in the terminal disclaimer previously submitted by Applicants, the application/patent being disclaimed was wrongly identified. The error is regretted, Applicants noting that the misidentification of the disclaimed application was an oversight. A new terminal disclaimer with the application being disclaimed correctly identified is submitted herewith. The previous terminal disclaimer incorrectly identifying the application being disclaimed is withdrawn.

Claims 49-58, 62-68, 70-74, and 76-78 were rejected under 35 USC 102(b) as being anticipated by Kerc, WO 96/36318. The examiner commented as follows:

Kerc discloses a pharmaceutical composition comprising a core, and a coating surrounding the core (page 4, 1st and 2nd paragraphs). The core comprises an amorphous drug dispersed in a polymer such as polyvinyl pyrrolidone and hydroxypropylmethyl cellulose with a viscosity from 3-1500 mPa.s (page 7; and example 1). The core is further mixed with excipients including cellulose ethers, glidant, filler, and lubricant (osmotic agent and